

**MINUTES OF THE MILLVILLE  
TOWN COUNCIL REGULAR & TELECONFERENCE MEETING  
November 10, 2020 (6:00 p.m. Executive Session; 7:00 p.m. Open Meeting)**

In attendance were Mayor Steve Maneri, Deputy Mayor Ronald Belinko, Treasurer Sharon Brienza, Secretary Barbara Ryer, Council Member Peter Michel, Town Solicitor Seth Thompson, GMB Representative Andrew Lyons Jr., Town Manager Debbie Botchie, Town Clerk Matt Amerling, and Town Code & Building Official Eric Evans.

**MOTION TO GO INTO EXECUTIVE SESSION.**

Secretary Barbara Ryer motioned to go into Executive Session at 6:00 p.m. Treasurer Sharon Brienza seconded the motion. Motion carried 5-0.

1. **EXECUTIVE SESSION** - Discussion of personnel matters in which the names, competency, qualifications and abilities of individual employees will be discussed.

**MOTION TO COME OUT OF EXECUTIVE SESSION AND RECONVENE OPEN MEETING.**

Deputy Mayor Ronald Belinko motioned to come out of Executive Session at 6:26 p.m. Council Member Peter Michel seconded the motion. Motion carried 5-0.

2. **CALL MEETING TO ORDER**

Mayor Steve Maneri called the meeting to order at 7:00 p.m.

3. **ROLL CALL**

Mayor Steve Maneri stated everyone was present.

4. **ADOPTION OF TOWN COUNCIL MINUTES**

A. Adoption of Town Council Minutes – October 13, 2020

Treasurer Sharon Brienza motioned to approve the October 13, 2020, Town Council meeting minutes. Secretary Barbara Ryer seconded the motion. Motion carried 5-0.

5. **FINANCIAL REPORT** – Treasurer Sharon L. Brienza

A. October 2020

Treasurer Sharon Brienza read the Financial Report for the month ending 10/31/20.

**October 31, 2020:**

General Revenue:	\$ 271,573.	Restricted Revenue:	\$ 183,280.
General Expenses:	59,243.	Restricted Expenses:	165,571.

6. **ADMINISTRATIVE MATTERS**

A. Administrative Report for October 2020

Deputy Mayor Ronald Belinko stated he noticed Town Manager Debbie Botchie has been asked to serve on a committee for “aging in place” and he knows it’s a priority for the Delaware government; and he’s glad they asked someone from Millville to participate in the committee.

**B. Charter Review Committee Report – Secretary Barbara Ryer**

Secretary and Charter Review Committee Chairwoman Barbara Ryer stated she is very pleased with how quick this process is moving along, and every Committee member is working very hard. Ms. Ryer stated they have only had three (3) meetings so far and as of the latest meeting on November 5, 2020, they are approximately eighty-five percent (85%) completed. Ms. Ryer stated the charter was divided up between the five (5) Committee members to review and Ms. Ryer has spoken with Ms. Botchie regarding the draft bill for revising this charter. Ms. Ryer stated once Town Solicitor Seth Thompson has reviewed and approved the Committee’s charter changes, the Committee will submit it to Council for review and approval.

**7. CITIZENS’ PRIVILEGE**

Ms. Barbara Ryer, of Blue Heron Drive, stated she would like to start a food drive for the Town to sponsor. Ms. Ryer stated she has completed a flyer for Ms. Botchie and Town Clerk Matt Amerling to review; and there will be a box here at Town Hall for a collection of canned goods.

**8. NEW BUSINESS**

**A. Discussion, Consideration, and Possible vote on Executive Session matters.**

Treasurer Sharon Brienza motioned to adopt the matters as discussed during Executive Session. Mr. Belinko seconded the motion. Motion carried 5-0.

**B. Discussion, Consideration, and Possible vote on Resolution 21-17. A Resolution to release performance bonds #BDS 400 060 in the amount of \$44,070.00; #BDS 400 170 in the amount of \$15,640.00; #BDS 400 249 in the amount of \$23,810.00; and #BDS 400 251 in the amount of \$122,973.00, all prepared by AEGIS Security Insurance Company, in the name of Gulfstream Development Corporation, the developer of Coventry at Barrington Park. The developer is required to have in place a warranty bond in the amount of \$52,160.00. The Resolution will also approve the transfer of improvements to the Coventry at Barrington Park Property Owners Association Inc.**

Ms. Ryer abstained from the discussion. Mr. Andrew Lyons Jr., of GMB, stated he did do multiple final inspections and reviews of Coventry both before and after paving. Mr. Lyons stated it was paved in May 2019 with a little bit more of paving done in June 2019; and since then, everything has been reviewed and has been found to be acceptable.

Ms. Brienza motioned to adopt Resolution 21-17. Mr. Belinko seconded the motion. Motion carried 4-0-1 abstention by Ms. Ryer. Ms. Ryer rejoined the meeting.

**C. Discussion, Consideration, and Possible vote on Resolution 21-18 to amend the Town's Fiscal Year 2021 Budget.**

Ms. Botchie stated the reason for this budget amendment is due to some pretty large expenses the Town has had to spend in order to conduct business during COVID. Ms. Botchie stated the Town is also adding in the long-term reserve study which Council approved at the October 13, 2020, meeting; so the total increase in restricted funds will be twenty-three-thousand-seven-hundred-fourteen dollars (\$23,714.00).

Ms. Ryer motioned to approve Resolution 21-18. Council Member Peter Michel seconded the motion. Motion carried 5-0.

**MOTION TO ENTER PUBLIC HEARING**

Ms. Ryer motioned to enter public hearing at 7:12 p.m. Mr. Michel seconded the motion. Motion carried 5-0.

**9. NEW BUSINESS**

**A. Public Hearing Notice – Secretary**

**B. Written Comments**

Ms. Botchie read the October 1, 2020, letter from the Millville by the Sea (MBTS) Home Owners Association (HOA) Board presidents, of which each Council member received a copy.

**C. Discuss a change in zoning of a property within the limits of the Town of Millville owned by E. Johnson Holdings LLC, Tax Map Parcel #134-16.00-17.00, totaling 49.98+/- acres located on Substation Road, from the current zoning of AR – Agricultural to R – Residential. At its October 8, 2020, meeting, the Town Planning & Zoning (P&Z) Commission voted 4-0 to recommend the change in zoning to Council.**

Mr. David Hutt, of Morris James, stated he is representing the applicant and the property of tonight's application is a forty-nine-point-ninety-eight (49.98) acres and is situated along both sides of Substation Road. Mr. Hutt stated the application is to change the zoning of this property from agricultural to residential. Mr. Hutt stated tonight's application for review is not for a subdivision review or a site plan or concept plan review. Mr. Hutt stated in any zoning change application – whether here in Millville, in another municipality, or County – there are two (2) primary documents which act as a guide for the Town to help make its decision regarding rezoning. Mr. Hutt stated the two (2) documents are the Town's zoning code as well as that body's comprehensive plan. Mr. Hutt stated with a comprehensive plan, the courts have explained and detailed the statutory requirement and noted a change of zoning application or any other land use

decision cannot be made arbitrarily or capriciously but instead must be made consistent with that comprehensive plan. Mr. Hutt further stated while the zoning code is important, it is a fairly routine task to look and see if a property has the underlying features that comply with the zoning district in which it has or the zoning district which is being sought for a property. Mr. Hutt stated for example, in the zoning code for residential, you will find certain area and yard requirements which establish minimum areas and sizes; and certainly this property can comply with all of those requirements which are found within the zoning code itself. Mr. Hutt stated for tonight's review, a person would reference chapter 155, section ten (10), subsection E, of the Town Code; and you would see the almost fifty (50) acres of this parcel could comply with all setback requirements. Mr. Hutt stated in Title Twenty-Two (22) of the Delaware Code the statutory requirement is detailed and noted that "comprehensive plans have the force of law once they are enacted," which means a municipality is guided and governed by its comprehensive plan.

Mr. Hutt stated on map one (1) of the comprehensive plan, the Town boundary, the parcel is clearly within the Town limits. Mr. Hutt stated on map two (2), the zoning map, the parcel is shown as currently being zoned as agricultural, and the parcel is surrounded by residential parcels on all sides. Mr. Hutt stated map three (3) is the State strategies for policies and spending map; and this map is put together by Ms. Connie Holland's group at the Delaware Office of State Planning & Coordination (OSP) to tell where certain areas should focus their efforts regarding monies to put towards things such as road improvements. Mr. Hutt stated the map labels this parcel as being on the level two (2) area, which means it's an area where the State thinks it is appropriate for growth. Mr. Hutt stated the level two (2) areas are some of the most vital and growing areas within the State and they are typically a transition from level one (1) areas to more rural areas, which makes sense here because the Town center is located nearby and is developed. Mr. Hutt stated this application – for both the change of zoning and the concept plan for Egret Shores subdivision – was presented to the OSP through the Preliminary Land Use Service (PLUS), which was presented to the State on July 22, 2020. Mr. Hutt stated in that process, the State accumulates a lot of commentary from various agencies within the State such as DeIDOT, the Delaware Department of Natural Resources and Environmental Control (DNREC), Historic Preservation, etc.; and the OSP puts all the comments together in a PLUS review letter, which goes to the applicant, which was issued on August 19, 2020. Mr. Hutt stated on the first page of the August letter, there is a significant statement, reading "this project is located in Investment Level 2 according to the 2015 *Strategies for State Policies and Spending*. It is also located within the Town of Millville. Investment Level 2 reflects areas where growth is anticipated by local, county, and State plans in the near-term future. State investments will support growth in these areas. Our office [OSP] has no objections to the proposed rezoning and development of this project in accordance with the Town codes and ordinances." Mr. Hutt stated this shows the consistency with the Town's comprehensive plan and the State strategies map.

Mr. Hutt stated map four (4), the existing land use map, has the parcel for review shown as zoned agricultural, surrounded by residential. Mr. Hutt stated map five (5), the future land use map, shows the parcel for review as residential. Mr. Hutt stated map eight (8), the water service areas map, this property falls within the area which is serviced by

Tidewater Utilities. Mr. Hutt stated map nine (9), wastewater services, shows there is public sewer available for this site. Mr. Hutt stated map ten (10), the environmental features map, shows there are no significant environmental features on this property. Mr. Hutt stated one of the considerations of any type of analysis for rezoning is the impact on traffic and in anticipation of those questions, the applicant met with DelDOT to review the concept plan, and DelDOT provided a list of required improvements and contributions if the proposed subdivision were to go forward. Mr. Hutt stated DelDOT's requirements were a part of the PLUS review process back in July 2020, and DelDOT's thoughts are set forth in the August 2020 letter the applicant received as a result of that meeting. Mr. Hutt stated having gone through the Town's comprehensive plan as well as its maps, it shows this change of zoning application is consistent with the Town zoning code, the Town's comprehensive plan, consistent with County's comprehensive plan, and consistent with the State's Strategies for State Policies and Spending; which all show this area as a growth area, which is largely because it's within a municipality. Mr. Hutt stated the reason this municipality is one of the State's seven (7) growth areas is because the County anticipates towns are places where you would want growth to occur. Mr. Hutt further stated the reasons for this are very similar to the reasons found in Millville's comprehensive plan – access to public utilities, the infrastructure towns have, and allowance for other areas outside of Town to stay the way they are and have some access to the same features. Mr. Hutt stated this area is also within the County's coastal growth area.

Mr. Tom Ford, of Land Design, stated when Land Design was brought this application, the first thing a land planner does with regards to preparing a conceptual design layout is review the zoning code. Mr. Ford stated they also look at the Town comprehensive plan, specifically the future land use map, which showed the land was considered appropriately to be zoned into a residential. Mr. Ford stated when they see a town's comprehensive plan future use map already has a parcel zoned the way the applicant wishes, it's not an "uphill battle" to request change of zoning as the Town in question has already given consideration to this land and its appropriate future use. Mr. Ford stated after meeting with Town officials, the applicant decided to try to move forward to request a change in zoning to the least dense zoning classification, which is being requested tonight. Mr. Ford stated to prepare themselves for a little more in depth such as whether the site suits the applicant's needs before going through the whole zoning change process, the planners need to arrange and conduct surveys, get topography on the site, and they hired environmental consultants from Environmental Resource Inc., which is a consultant that is very knowledgeable to the area, and they assess the wetland situation, the tax ditch situation, the soil situation, and give the planner a cursory feeling of how all those aspects would work on the site. Mr. Ford further stated it came out reasonably positive for the entire site and the planner will be conducting a jurisdictional determination (JD) with the Army Corps of Engineers should the rezoning go through, but the Corps feels like the issue out there is a man-made diagonal ditch they feel is non-jurisdictional, which they will have to be involved with. Mr. Ford stated there are a lot of players in this planning, and there is the subdivision schematic which reviews roads and lots and how the geometrics of the site is going to accommodate these aspects. Mr. Ford stated went to DelDOT outside of the PLUS process, and there are a lot of improvements DelDOT will require – not just on the frontage of the property, which is nine-hundred-ten (910) feet

long, but extends to thirteen-hundred-thirty (1,330) feet because the applicant has to go north and south of just the frontage. Mr. Ford further stated they will also be putting on shoulders; putting in a bike lane; there is a sixty (60)-foot right-of-way (ROW) which is already dedicated out there now but will be required to dedicate an additional thirty (30)-foot width with fifteen (15) feet on each side of the sixty (60) feet for a multi-use path. Mr. Ford stated when they improve the multi-use path, it's eighteen-hundred (1,800) linear feet of ten (10)-foot wide multi-use path which will tie into Coventry and other improvements along that road. Mr. Ford stated the developer – on top of those improvements in front of the property – is also going to be contributing to other traffic considerations surrounding the immediate area and one of them is a round-about intersection at Burbage Road and Substation Road, which DelDOT is planning; and there is a light being situated at Windmill Drive and Burbage Road, to which this subdivision would have to contribute. Mr. Ford stated there is already a light at Burbage Road and Roxana Road/Route 17, but the subdivision will have to contribute should this go forward.

Ms. Dianne Achut stated she is the property owner of the parcel up for discussion this evening, she is the co-owner of E. Johnson Holdings – along with her son – and this is a letter she and her husband composed trying to explain how they feel about their property. Ms. Archut stated the property has been in her family for close to one-hundred (100) years as her grandfather had it, and when he died, Ms. Archut's mother inherited the land; and upon her death, Ms. Archut inherited it. Ms. Archut stated she is from here and she's been here all her life, so she knows the property well. Ms. Archut stated the viability of farming is diminishing with time. Ms. Archut stated as can be seen from the Town's current zoning map, this parcel will ultimately be surrounded by developments. Ms. Archut stated it is their belief all of most of the farms in the Town have already been sold or are under contract for development and are zoned residential. Ms. Archut stated farms are continuing to be sold for development in the area surrounding the Town. Ms. Archut further stated this makes travel time longer and more difficult for the farmer as he tries to move his oversized equipment to and from the site on roads which are heavily traveled, have no shoulders and are narrow. Ms. Archut stated the farmer already travels one-point-two (1.2) miles from the next closest farm that he cultivates to the parcel being discussed tonight. Ms. Archut stated to make this journey, the farmer has to take special care in moving his large equipment to the farm to plant, cultivate and harvest the crops by avoiding peak traffic times; and the further he has to travel, the less cost and time effective it is to farm it. Ms. Archut stated the farmer has told them the quality of the farmland and the yield from the farm is only average, and eventually it will become unviable to farm the parcel. Ms. Archut stated they owned a small parcel in Ocean View and it became unviable for the farmer to farm it. Ms. Archut stated when the farmer stopped farming the Ocean View parcel, they were responsible to cut the grass to meet the town's code, which meant sending someone on a tractor with a bushhog to cut the grass every two (2) weeks during the summer season. Ms. Archut stated it was a very costly burden to maintain a pastoral view for the enjoyment of neighbors and motorists driving by. Ms. Archut stated eventually, the only logical choice was to sell the property for a single family home subdivision, and they anticipate the same outcome in Millville if the land can no longer be practically farmed. Ms. Archut stated they would also like the Town

to consider the parcel originally consisted of seventy (70) acres, but Ms. Archut's mother sold twenty (20) acres to the developers of MBTS to be used in conjunction with their own land. Ms. Archut stated those twenty (20) acres were rezoned residential and became part of MBTS's subdivision plan. Ms. Archut stated this evidently was acceptable to the Town. Ms. Archut stated it is their understanding the County's comprehensive plan encourages development to occur in "growth areas" where services are provided, which include the coastal area, town centers, and municipalities. Ms. Archut stated the Town's recently adopted comprehensive plan shows the future land use of the parcel as being "residential." Ms. Archut stated they ask the Town approve the request of Stafford Street Capital LLC to rezone the land for single family development. Ms. Archut stated they feel like Stafford's proposal is in character with the surrounding development and will meet all the requirements of the regulatory agencies; and she thanked the Council for its consideration. Mr. Hutt stated the question this evening is whether the request to change the zoning of this parcel is consistent with the zoning code and comprehensive plan, and if they believe it is consistent with each of the maps in the Town comprehensive plan, as well as the State strategies map.

Mr. Andrew Lyons Jr., of GMB, stated he reviewed the request for the amendment to the zoning map and in extensively reviewing the application with the comprehensive plan and especially the future of land use map, as stated in the plan, the future land use map is incorporated as part of the plan and provides the foundation for decisions regarding land use and zoning. Mr. Lyons stated it is upon the plan's adoption it will also serve as an informal document to the public as a rational basis for Millville's land use decisions and policies. Mr. Lyons stated Council has seen his comment letter, which has the applicant requesting a change of zoning from AR – Agricultural to R – Residential. Mr. Lyons stated the property is surrounded by residential zoned properties of a heavier density as it's surrounded by MPC and RPC properties. Mr. Lyons stated the applicant has requested residential, so it is a request which is in line with the comprehensive plan and in line with the land use which is around the property on a planning purpose. Mr. Lyons stated one of the items which is very big in a request of zone is you're not recommending it on the plan but on the use which can be. Mr. Lyons stated the only permitted uses for a residential district are single-family detached dwellings, but not including single- or double-wide mobile homes; churches, rectories, parish houses, convents, monasteries, temples, synagogues and other places of worship; cemeteries; and public and private park lands, forest, wildlife reservations or similar conservation projects. Mr. Lyons stated the request for zoning is based off these uses. Town Solicitor Seth Thompson stated rezonings do need to be consistent with the comprehensive plan in addition to State Code Title 22. Mr. Thompson stated it is important to think of the rezoning as dealing with the district which is being applied to the property and it's important to think of what is going on said property, especially if you think of the items he just reiterated from Title 22.

#### **D. Council Discussion**

Ms. Ryer stated the land in question is in the Town's comprehensive plan for rezoning to residential. Ms. Ryer stated when most of the Town residents moved here, we loved the peace and quiet but Ms. Ryer doesn't think anyone ever thought they were going to move

here and not see the land developed. Ms. Ryer stated Millville is “a beautiful piece of heaven and a lovely place,” and farmers have worked hard days for decades so Ms. Ryer is happy they have the right to sell their land. Ms. Ryer stated when she was in attendance at last week’s Sussex County Association of Towns (SCAT) meeting, the acting Secretary of DelDOT gave a nice presentation for the towns. Ms. Ryer stated she asked the acting Secretary if DelDOT looks at all the Town’s comprehensive plans while reviewing – and before approving – roads; so Ms. Ryer feels good about that aspect.

#### **E. Residents/Property Owner Comments & Questions**

Mr. Dave Moeller, of Blue Heron Drive, stated he hopes Council reserves its decision and keeps an “open mind” until after public comment because it sounds a lot to him like decisions have already been made. Mr. Moeller stated he would like to start with the Millville Mission Statement: “To ensure a sufficiently high quality of life for current and future residents; grow in a manner consistent with current Town values; protect the environmental quality of resources located within Millville and in the surrounding area; provide for and protect existing open space areas within the community; and target development in areas where services can be provided at the least cost and in the shortest time possible.” Mr. Moeller stated as most of you know, mission statements are not taken lightly as the individuals who work on these spend countless hours reworking the statement to ensure they get it right. Mr. Moeller stated, knowing that, Mr. Moeller thinks it is no mistake that protecting the environment, resources and open spaces in our Town all precede any thoughts on developing the area. Mr. Moeller stated he would like everyone to know he did attend the Town Comprehensive Plan meetings. Mr. Moeller stated at these meetings, we were advised that the Comprehensive plan is a tool to “guide” the future of the town and we were never advised that any part of the Comprehensive Plan would be virtually irreversible. Mr. Moeller stated there is also nothing in the Comprehensive Plan which states that future land use recommendations will have the effect of law. Mr. Moeller stated such a strategy usurps the public’s right to be heard on rezoning issues and in no way should dampen or discourage input. Mr. Moeller asked if the Town Council was aware of this effect? Mr. Moeller stated if yes, shame on the Town Council for not letting the public know; and if Council is not aware of it, shame on them for not being aware and shame on KSI Technologies for not making this point known to the general public. Mr. Moeller stated any preliminary site plan which has been submitted for consideration carries no obligations for the property under review; and the developer can – and sometimes does – later submit a different proposal after the rezoning. Mr. Moeller stated taking all of these facts into account, the preliminary site plan should not be used as an argument in favor of the rezoning request and any proposed site plans cannot and should not be used as an argument in favor of the rezoning request. Mr. Moeller stated each and every rezoning request should stand on its own merits, apt to any proposed site plan; yet this is what the Planning & Zoning Commission (P&Z) does when they make a full recommendation. Mr. Moeller stated online the Comprehensive Plan references Map 4 which shows the areas zoned as Agricultural. Mr. Moeller stated the Future Use Map does show the area as residential but, sadly, the Town park is the only future open space. Mr. Moeller stated map 10 shows that parts of that land under consideration are part of the Assawoman Watershed. Mr. Moeller stated on page thirty-



seven (37) of the Comprehensive Plan, there were four-hundred-ninety-four (494) more acres already approved and/or under construction, which is about one-third (1/3) of the land in Millville – and it does not take into account the already built houses. Mr. Moeller stated the Town consists of approximately one-thousand-five-hundred-thirty (1,530) acres. Mr. Moeller further stated the Comprehensive Plan states that agricultural zoning is one of the town's most valuable assets yet only six-point-one percent (6.1%) of the land is zoned as agricultural. Mr. Moeller asked why not take steps to save one of our most valuable assets? Mr. Moeller stated you have master planned plus residential plus residential planned land consisting of eighty-two-point-eight percent (82.8%) of the land in the Town. Mr. Moeller stated page seventy-two (72) of the plan says “preserved open space consists of only point-three percent (0.3%) of all the land in Millville. Mr. Moeller stated quoting the Comprehensive Plan, there are already a significant number of housing units – over fifteen-hundred (1,500) – under construction, planned or already approved. Mr. Moeller stated the survey given found that most residents believed there already existed an adequate supply of housing. Mr. Moeller stated Millville's growth – one-hundred-thirty-one percent (131%) for 2010 to 2017 – has greatly outpaced the County, which was eight-point-one percent (8.1%) and the State at only four-point-three percent (4.3%); so Millville has done its part. Mr. Moeller stated the Comprehensive Plan concluded that we already have six-hundred-fifteen (615) more units built or approved than are needed to accommodate current and projected population growth even by the most aggressive populated projections. Mr. Moeller stated Millville has been designated by the State as a coastal area with ecological and sensitive characteristics that help absorb floodwaters, provide habitat for native flora and fauna; and these areas also have a significant impact on water quality within adjacent bays and inlets. Mr. Moeller stated on page eighty-two (82) of the Comprehensive Plan, most of the residents' comments regarding land and land use expressed concerns about over development and the impact on the environment. Mr. Moeller stated there were zero (0) comments received via the survey that stated anything like ‘Millville should increase the housing development rate and make more areas available for development.’ Mr. Moeller stated, per the Comprehensive Plan, there were a significant number of comments received by KSI regarding concern about the rate of growth in the area and the effects on traffic, storm water management, environmental impact, etc. Mr. Moeller stated more than any other item for feedback, ninety-one percent (91%) of respondents either strongly agreed or agreed that development should be balanced with protection of farmland and open space. Mr. Moeller stated the Comprehensive Plan recommendations cited many ecological considerations and urged the town to pursue actions that would preserve open space and minimize environmental impact. Mr. Moeller stated he asks the Town Council, what has been done to support these recommendations? Mr. Moeller stated there were zero (0) recommendations to the Town about insufficient housing or a need to accelerate development; in fact, quite the opposite. Mr. Moeller stated on October 8, 2020, we heard how the property owners sold off a sizeable chunk of their land to developers and now they are trying to claim hardship because they are surrounded by houses. Mr. Moeller stated this is a problem of their own doing and should not be accepted as a valid argument. Mr. Moeller stated no one is entitled to create their own hardship. Mr. Moeller stated agricultural property owners are not automatically entitled to a windfall through the process of rezoning; they had – and continue to have – the use of their land as it has been

for generations. Mr. Moeller further stated nothing is being taken from them by maintaining the property as agricultural as these owners will continue to have the right to use their property. Mr. Moeller stated the Town should develop some sort of checklist against which any rezoning request can be measured – a SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis of sorts. Mr. Moeller stated, for example, applicants would compare a zoning request to the thirty-eight (38) recommendations of the Comprehensive Plan. Mr. Moeller stated this would create some common ground for discussion with the general public, such as is the rezoning needed; based on what criteria; does it harm the community in any way; how so; does it meet the near-term needs of the community; how so; is it in the best interest of the community; how so? Mr. Moeller asked what about the Assawoman watershed and how will that be affected? Mr. Moeller stated it is a mischaracterization to say the P&Z recommends accepting the rezoning request; the scope of their guidance is to advise the Town Council as to whether or not the rezoning request is an acceptable use of the land in question. Mr. Moeller stated the P&Z makes no judgement as to whether any rezoning request is morally appropriate but that decision rests with Council. Mr. Moeller stated just because something can be done, doesn't mean it should be done. Mr. Moeller stated it is true the Comprehensive Plan carries the weight of law but we have the ability to effect change. Mr. Moeller stated the current Comprehensive Plan does not support Millville's mission statement. Mr. Moeller stated as the elected Town Council, not only do you have the ability to amend the Comprehensive Plan, you have the obligation to do so. Mr. Moeller stated the mission statement itself should be at the top of the pyramid and dictate the guiding principles upon which the Comprehensive Plan is developed. Mr. Moeller stated we can, and should, amend the Comprehensive Plan to align with, and support, the vision that was first laid out in the mission statement. Mr. Moeller stated Council has the power to take such action. Mr. Moeller stated the Comprehensive Plan does not support Millville's mission statement and the vision set forth there in. Mr. Moeller stated the public was told the Comprehensive Plan is a guide for the Town, not the law. Mr. Moeller stated Millville has already done its part to accommodate future growth, far outpacing the County and State, and there were – or are – already over fifteen-hundred (1,500) home sites, four-hundred-ninety-four (494) acres approved or underway. Mr. Moeller stated the property owners have created their own hardship over the years and not approving the rezoning request does not take anything from anyone. Mr. Moeller stated the preliminary site plans should carry zero (0) weight in rezoning considerations, and granting a rezoning request does not reflect the desires of the community at large; the desires of the many should outweigh the desires of the few. Mr. Moeller stated it is Town Council and not the P&Z who is empowered to determine if the rezoning request can – and should – be approved. Mr. Moeller stated zero (0) actions have been put forth by Council to actually support the recommendations of the Comprehensive Plan. Mr. Moeller stated Council has the opportunity before them to correct that oversight by amending the Comprehensive Plan. Mr. Moeller stated we do not need another development, we do not need more housing, there is no need for more traffic and there is no need for more threats to our environment, especially water absorption and water runoff. Mr. Moeller stated there is no need or justification for rezoning this property other than creating a windfall for the property owners. Mr. Moeller stated what we do need is a Town Council that is willing to step up and fulfill the ideals of our mission statement. Mr. Moeller further stated there is nothing

any of us can do today to undo what has taken place in the past but past decisions are not justifications for perpetuating that logic. Mr. Moeller stated all we can do is make the best decisions we can going forward and that includes preserving some of the character of Millville as was envisioned when the mission statement was adopted. Mr. Moeller stated he asks Council fulfill Millville's mission statement and heed the recommendations of the comprehensive study itself. Mr. Moeller stated the rezoning request does not need to be approved. Mr. Moeller stated if the future use residential designation cannot be challenged, then, for all intents and purposes, the property is already rezoned. Mr. Moeller asked how did this change happen without allowing for public commentary, how is that right? Mr. Moeller asked if the rezoning request cannot be challenged, and appropriate corrective actions taken, why bother having this meeting? Mr. Moeller stated he thinks the Town should consider setting goals such as percentages of open space, percentages of agricultural space, etc., then rezoning requests to change commercial or residential could be required to obtain alternative spaces which will be counted toward the agricultural space goals. Mr. Moeller asked how much weight should be placed in the Comprehensive Plan as it is a guide? Mr. Moeller stated one of the Town Council or staff should be the advocate or champion for implementing the Comprehensive Plan recommendations.

Town Code & Building Official Eric Evans stated he wants to make sure everyone knows the Town has never received a preliminary site plan on this site. Mr. Evans stated P&Z received a concept plan for just comment back from the Town on how the applicant could better improve the property. Mr. Evans stated regarding open spaces, the Town is doing its part as Coventry has six (6) acres of open space, Parkside has seven (7) acres, Southern Landing has a full acre, Sea Edge on Beaver Dam Road has five (5) acres, Bishop's Landing South (BL1) has forty-six (46) acres, Bishop's Landing North (BL2) has forty-three (43) acres. Mr. Evans stated he doesn't know if people are using the open space or not as that's not for him to determine; but if a person wants to go out and start walking, there's land for you to do so. Mr. Evans stated MBTS, which includes Peninsula Village and the Roxana apartments, has one-hundred-seventeen (117) acres of open space. Mr. Evans stated he heard the comment of Millville being about fifteen-hundred (1,500) acres, and the Town has two-hundred-thirty-six (236) acres of open space in the developments, which is almost twenty percent (20%) of Millville. Mr. Evans stated by the time we get done with the rest of MBTS and any other development of land coming around, the Town will have over twenty percent (20%) of open space – not farm land but open space for public use. Mr. Evans stated if it remains farm land, it's not public use as it's private property.

Town Manager Debbie Botchie stated regarding Mr. Moeller's comments, the Town had a Comprehensive Plan meeting on December 18, 2018, which was all about land use and all of the maps were discussed, as well as the force of law, and the minutes from that meeting are – and have been – online. Ms. Botchie stated Mr. Moeller was not in attendance at that meeting. Mr. Moeller stated, regarding Mr. Evans' comments, two-hundred (200) out of fifteen-hundred (1,500) acres is thirteen percent (13%), not twenty percent (20%); and it's not public open space but is open space within the developments, and Mr. Moeller is not going to go into another development so he can walk on their paths. Ms. Brienza stated people from other developments come into MBTS all the time to utilize their paths. Mr.

Moeller stated yes, the Town has not received a site plan for this parcel; however, a site plan was put out there at the P&Z meeting for them to consider. Ms. Botchie stated that was a concept plan and is not voted on or recommended. Mr. Moeller stated the applicant uses the plan as a backdrop for whether it's an appropriate use for that land, so, in some respects, it does affect P&Z's perspective.

### **MOTION TO CLOSE PUBLIC HEARING**

Ms. Ryer motioned to close the public hearing at 8:20 p.m. Mr. Belinko seconded the motion. Motion carried 5-0.

### **10. NEW BUSINESS**

**A. Discussion, Consideration, and Possible vote on a change in zoning of a property within the limits of the Town of Millville owned by E. Johnson Holdings LLC, Tax Map Parcel #134-16.00-17.00, totaling 49.98+/- acres located on Substation Road, from the current zoning of AR – Agricultural to R – Residential.**

- **Mayor Maneri will request an individual vote**

Ms. Ryer motioned to approve the change in zoning for Tax Map Parcel #134-16.00-17.00, located on Substation Road, from the current zoning of AR – Agricultural to R – Residential. Mr. Michel seconded the motion. Mr. Michel stated after hearing and reading everything as presented this evening, he votes yes. Mr. Belinko stated when you take a look at the future growth area the County has approved, he also considers the Beebe emergency department and how it was placed where it was – as State and County officials wouldn't put something "out in the middle of nowhere" if they didn't think growth would happen, as well as the recently approved school district referendum due to population growth. Mr. Belinko stated he also considers the Town Comprehensive Plan was taken into account and it being force of law, but he also looks at property rights and how this property owner has a right to sell to whomever they choose. Mr. Belinko stated traffic has been taken into consideration as evidenced in the PLUS review, and everyone in attendance tonight lives on property which was once agricultural and he cannot vote against giving the same opportunity of others to live in Millville, so he votes yes. Ms. Brienza stated the request is not inconsistent with the Comprehensive Plan; the property owner had previously sold twenty (20) acres to MBTS which was rezoned residential. Ms. Brienza stated this property is in line with the zoning of surrounding properties because – as the applicant stated in her letter – farming is diminishing in this area with time and Ms. Brienza thinks everyone's seen it. Ms. Brienza stated she understands this is a sensitive issue but she finds it hard to believe anyone who has recently moved here, believed this property would stay farm land forever because she knows she and her husband never did. Ms. Brienza stated she votes yes. Mayor Maneri stated his thanks to the presenters and the current property owner as she has a right to do with her property what she wants. Mayor Maneri stated he votes yes. Ms. Ryer stated the land does fall in the Comprehensive Plan for rezoning, it has all of the utilities needed to build residential housing, and it's met all the requirements of PLUS, so she votes yes. Motion carried 5-0.

**11. CITIZENS' PRIVILEGE**

Mr. Dave Moeller, of Blue Heron Drive, stated he's not really surprised with the vote, but he does request Council take a look at the recommendations of the Comprehensive Plan and try to put something together to follow through on the plan's recommendations. Mr. Belinko stated on the Town Manager's report, you will see several meetings with staff from Ocean View on items in the Comprehensive Plan, which is for a ten (10)-year period. Mr. Belinko stated it's only been adopted for a year, but if you look at the progress the Town has made so far with items such as bike trails, sidewalks, etc., many things on the Comprehensive Plan have already been accomplished or addressed.

**12. ANNOUNCEMENT OF NEXT MEETING - Town Council Workshop Mtg.,  
November 24, 2020****13. ADJOURNMENT**

Ms. Brienza motioned to adjourn at 8:30 p.m. Mr. Belinko seconded the motion. Motion carried 5-0.

Respectfully submitted,  
Matt Amerling, Town Clerk